

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

LAMMERS BARREL PRP GROUP,	)	CASE NO. 3:17-cv-00135-WHR
)	
Plaintiff,	)	JUDGE WALTER H. RICE
	)	MAGISTRATE JUDGE SHARON L.
v.	)	OVINGTON
)	
CARBOLINE COMPANY, <i>et al.</i>	)	ETC SUNOCO HOLDINGS, LLC
	)	F/K/A SUNOCO, INC.'S AND
Defendants.	)	CARBOLINE COMPANY'S
	)	MOTION <i>IN LIMINE</i> TO EXCLUDE
	)	EVIDENCE OF TIME-BARRED
	)	COSTS

Pursuant to Rules 401 and 402 of the Federal Rules of Evidence, Defendants ETC Sunoco Holdings, LLC f/k/a Sunoco, Inc. (“Sunoco”) and Carboline Company (“Carboline”), by and through their undersigned counsel, move the Court *in limine* for an Order precluding Plaintiff, Lammers Barrel PRP Group (“Plaintiff”), from introducing evidence of past costs incurred under a 2002 Administrative Order on Consent it entered with USEPA.

As set forth more fully in the attached Memorandum in Support of this Motion, Plaintiff has conceded, in the summary judgment briefing filed in this action, that it cannot directly recover such costs, and as Sunoco and Carboline demonstrated in their motion papers, an action to recover such costs had to be filed no later than in 2005. Plaintiff instead asserts, without support, that the Court may consider time-barred costs to evaluate Sunoco’s and Carboline’s alleged “recalcitrance,” but Plaintiff is incorrect. Evidence of time-barred costs is irrelevant and thus inadmissible.

Date: November 5, 2019

Respectfully submitted,

/s/ William E. Coughlin

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Carboline Company

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2019, the foregoing **ETC SUNOCO HOLDINGS, LLC F/K/A SUNOCO, INC.'S AND CARBOLINE COMPANY'S MOTION *IN LIMINE* TO EXCLUDE EVIDENCE OF TIME-BARRED COSTS**, with its Memorandum in Support, was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/William E. Coughlin

One of the Attorneys for ETC Sunoco
Holdings, LLC f/k/a Sunoco, Inc. and
Carboline Company